

Minutes

Bar Harbor Town Council

June 11, 2008

- I. CALL TO ORDER** – 7:00 P.M. – In attendance were: Councilors Ruth Eveland, Robert Garland, Paul Paradis, Sandy McFarland, Julia Schloss, Greg Veilleux, Robert Jordan, Jr.; and Town Manager Dana Reed.

II. ORGANIZATIONAL MATTERS

- A. Oath of Office** – Town Clerk Patricia Gray duly sworn in the Town Council.

- B. Election of Officers** – The Town Manager opened the floor for nominations of officers.

1. Chair – Councilor Schloss nominated Ruth Eveland. There being no further nomination, it was moved and duly seconded to cease nominations for Chair. Motion passed 7-0. Ruth Eveland was declared elected Chair unanimously.
2. Vice-Chair – Councilor Schloss nominated Robert Garland. There being no further nominations, it was moved and duly seconded to cease nominations for Vice-Chair. Motion passed 7-0. Robert Garland was declared elected Vice-Chair unanimously.
3. Secretary – Councilor Schloss nominated Paul Paradis. There being no further nominations, it was moved and duly seconded to cease nominations for Secretary. Motion passed 7-0. Paul Paradis was declared elected Secretary unanimously.

- C. Selection of Seating** – Councilors selected their seats by order of seniority.

- D. Excused Absence(s)** – There were none absent.

III. APPROVAL OF MINUTES:

- A. May 20, 2008** – *Special Meeting*

- B. May 20, 2008** – *Regular Meeting*

- C. June 2, 2008** – *Special Meeting*

Mr. Paradis, with second by Mr. Veilleux, moved to approve the minutes of the May 20, 2008 special and regular meetings, and the June 2, 2008 special meeting as presented. Motion passed 7-0.

- IV. ADOPTION OF AGENDA** – Mr. Paradis, with second by Ms. Schloss, moved to adopt the agenda as presented. Motion passed 7-0.

- V. FINANCIAL STATEMENTS:** (Customarily presented at the second meeting each month)

VI. PUBLIC HEARINGS:

A. Special Amusement Permit: Bar Harbor Tennis Club, 111 West Street, *Request of Mark Walsh for a Class 3ad permit, three or more musicians with mechanical amplification and dancing. (Tabled from May 20 meeting)* – There being no public comments, Chair Eveland explained that during the previous public hearing a resident inquired if the permit request included the location of the new pool house. Representative Eben Salvatore affirmed it did include the new pool house. Mr. Paradis, with second by Mr. Garland, moved to approve the special amusement permit renewal for the Bar Harbor Tennis Club as requested. Motion passed 7-0.

B. Park Use Ordinance Amendment – *Public hearing on and possible adoption of an amendment to Town Code Chapter 144, Parks, to add Town Hill Playground and Hadley Point Landing to the list of regulated parks and to make certain other technical changes.* – There being no comments, Mr. Paradis, with second by Ms. Schloss, moved to adopt the Park Use Ordinance dated 5-6-08 as presented. Motion passed 7-0.

Park Use Ordinance
Town of Bar Harbor

An Amendment to add Town Hill Playground and Hadley Point Landing to the list of regulated parks and to make certain other technical changes.

The Town of Bar Harbor hereby ordains that Chapter 144 of the Town Code is amended as follows:

[Please Note: Old language is ~~stricken~~. New language is underlined.]

Chapter 144, PARKS

• • • •

§ 144-2. Definitions.

As used in this chapter, the following words, terms and phrases, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

ATHLETIC EVENT — A competitive or non-competitive recreational program or activity in which people participate in exercises, sports, or games requiring physical strength, agility, or stamina.

• • • •

MAJOR EVENT — Any special event having a duration of more than four to 48 hours ~~duration or more~~, including time required for set up and breakdown.

MINOR EVENT -- Any special event having a duration of ~~less than~~ less than four hours or less, including time for set up and breakdown.

• • • •

PARK -- Any Town owned or leased land or facility listed in § 144-4.A.

• • • •

§ 144-4. Description of parks.

- A. The parks referred to in this chapter include the areas within the boundaries of the following properties as described in the records of the Tax Assessor's office as follows:

Park	Map-Block-Lot
Agamont Park	That portion of 002-005-015 southerly of West Street and the Shorepath, excepting Newport Drive and the parking lot.
Athletic Field	004-001-001 and 004-001-013 and 004-001-014
Barker Park	003-004-034
Glen Mary Park	004-012-001
Grant's Park	002-005-006A
<u>Hadley Point Landing</u>	<u>That portion of 202-002-000 lying above the mean high water mark.</u>
Harborview Park	That portion of 003-005-009 lying north of West Street and west of Main Street.
Millbrook Preserve	11C-000-075B and 11C-000-075D
Park Street Playground	004-008-008
<u>Town Hill Playground</u>	<u>That portion of 227-018-004 leased by the Town for park purposes.</u>
Village Green	003-01-004

- B. The following properties are not considered Town parks for the purpose of this ordinance.

Location	Map-Block-Lot
Hadley Point Landing	11A-000-030
Gloosecap Native	13A-000-036
American Monument	
Blue Star Highway Monument	
Town Beach	That portion of 002-005-015 lying north of the Shorepath.

§ 144-5. Park Closure.

• • • •

- C. Hours May Vary. The permitting authority may vary the attendance closure hours for ~~special activities and~~ special events.
- D. Special Closures. Any section of any park may be declared closed to the public by the Public Works Director, Fire Chief or Chief of Police at any time and for any ~~interval of time~~ duration, either temporarily or at regular stated intervals, by

posting suitable signs or other markings. No person shall remain in such a closed area.

• • • •

§ 144-25. Special Events.

Town parks will be made available, on a limited basis, for special events subject to the following restrictions:

• • • •

E. Application Review. . . .

(1) Application Deadlines. . . .

• • • •

- (b) Major Events. Application for a permit for a major event shall be filed with the Public Works Director no later than February 1 of the calendar year in which the special event is to take place if the event is to occur during the months of June, July, August or September, and a minimum of ~~three months~~ 90 days prior to the date of the event in all other cases.

• • • •

- (3) Standards For Approval. The following standards shall be utilized by the permitting authority in reviewing applications for special events.

- (a) The permitting authority shall issue a permit if it finds:

• • • •

- [8] For minor events—~~if the event will not exceed four hours in duration (i.e. it is a minor event):~~

• • • •

- [9] For major events ~~—if the event will be four hours or more in duration, but will not exceed 48 hours (i.e. it is a major event),~~

• • • •

- [b] The event will not exceed 48 hours duration.

- [b] ~~High Season~~—Major events will not be allowed in ~~the months of July and or August unless they coincide with national holidays~~ the event is an Independence Day celebration or takes place on the Saturday and/or Sunday immediately prior to Labor Day.

- [e] ~~For events involving for-profit retail sales: For-profit sales may occur at major events provided that:~~

• • • •

- [iii] No events involving for-profit retail sales will occur ~~during the months of in~~ July or August, unless the event is an Independence Day celebration or takes place on the Saturday and/or Sunday immediately prior to Labor Day.
- (b) Conditional Approval. When approving the permit, the permitting authority may approve the permit with suitable conditions for the purpose of assuring compliance with this ordinance. Said conditions may include, but are not limited to:
- [1] Location: designating the park or the specific area within a park where the special event shall be allowed to take place, even if this is a location different ~~than~~ from that requested by the applicant.
- • • •
- H. Noise. Amplified sound may be allowed by special event permit in Town parks. However:
- • • •
- (3) The applicant must comply with any Bar Harbor police officer's request to reduce the noise to a level acceptable to the police officer, in his or her sole judgment.
- • • •
- J. Cleanup. The sponsoring person or organization shall return the park to the condition it was in prior to the special event. The sponsoring person or organization will be billed by the Town for any damages incurred beyond normal wear and tear, as determined by the Public Works Director in his or her sole judgment, and shall pay the full amount of the invoice within thirty (30) days of the billing date. Any invoice remaining unpaid after thirty (30) days may be collected in a court of law. In addition, no future special event may be scheduled by the sponsoring person or organization until the account is cleared.

[end of ordinance]

VII. REGULAR BUSINESS:

- A. Cruise Ship Bus Parking** – *Recommendation of the Cruise Ship Study Task Force for a test of a downtown bus passenger drop off area.* – Mr. Paradis, with second by Mr. Garland, moved to request staff to coordinate a test of a bus passenger drop-off area on the south side of Mt. Desert Street from Main Street to Temple Street on Sunday June, 22, 2008 from 10 a.m. to 3:00 p.m., and one additional date to be determined by the CSSTF. Motion passed 7-0.
- B. School Reorganization** – *Status report by Council's representative to the Reorganization Planning Committee, Councilor Bob Garland.* – Councilor Garland stated that there was nothing new to report. The RPC draft plan to the Department of Education is on the MDIHS website for viewing.

C. Debt Management Policy – Request of the Town Manager for Council consideration of a policy to standardize the issuance and management of debt. – Mr. Paradis, with second by Ms. Schloss, moved to adopt the Debt Management Policy as proposed. Motion passed 7-0.

Debt Management Policy

6-11-08

Town of Bar Harbor

The following policy is hereby enacted to standardize the issuance and management of debt.

Purpose of Policy

The objective is to establish conditions for the managed use of debt and to create procedures and policies that minimize the Town's debt service and issuance costs, obtain and then retain the highest practical credit rating, and to maintain full and complete financial disclosure and reporting. The policy applies to all general obligation debt issued by the Town, including leases, debt guaranteed by the Town, and any other forms of obligation of indebtedness.

A regular, updated debt policy can be an important tool to ensure the optimal use of the Town's resources to meet its ongoing commitments, to provide needed services to its citizens, to improve its infrastructure for the taxpayers of Bar Harbor, to maintain sound financial management practices, to impose a discipline in the process and to protect the Town's credit quality. A good debt policy provides bondholders with assurances that debt burdens will be kept at manageable levels while simultaneously meeting capital needs on an ongoing basis. This policy is therefore a guideline for general use, and allows for exceptions in extraordinary conditions.

The policy has been adopted by the Town Council by resolution and, with advance notice and an affirmative vote of five Councilors, can be adjusted at any time by resolution of the Town Council.

Debt/Credit Policy Objectives

Credit Ratings: The Town of Bar Harbor seeks to maintain the highest possible credit rating for its short and long-term General Obligation debt that can be achieved without compromising the delivery of basic Town services and the achievement of adopted policy objectives. *Managing debt* is one of five key components typically examined by the rating agencies. The other four components are *administrative, financial, economic and legal restriction* factors.

Financial Disclosure: The Town is committed to full and complete financial disclosure, and to cooperating fully with rating agencies, institutional and individual investors, Town departments and agencies, other levels of government, and the general public to share clear and accurate financial information. The Town is dedicated to meeting secondary disclosure requirements on a timely and comprehensive basis, as required by appropriate regulatory authorities.

The Official Statements accompanying new debt issues and the financial reports shall meet (at a minimum) the standards articulated by the Government Accounting Standards Board (GASB), the Securities and Exchange Commission (SEC) and Generally Accepted Accounting Principles (GAAP). The Finance Director shall be responsible for ongoing debt disclosure to the established national information repositories in accordance with SEC Rule 15c2-12.

The annual budget processes currently provide annual full disclosure of all debt associated with municipal related tax-supported debt and user fee supported wastewater and water supported debt.

Capital Planning: To enhance creditworthiness and prudent financial management, the Town is committed to systematic capital planning, intergovernmental cooperation and coordination, and long-term financial planning. Evidence of this commitment to systematic capital planning is demonstrated through adoption and periodic adjustment of five-year Capital Improvement Plans (CIP) for its Municipal CIP Fund, its Wastewater CIP fund and its Water CIP fund.

Debt Limits: The Town hereby sets a maximum target for the Town's outstanding debt at 2/3rds of the limit prescribed by State statute (30A MRSA 5702), or five percent ($7\frac{1}{2}\% \times 66.7\%$) of actual full state assessed value of property of the Town (excluding school, storm & sanitary sewer purposes debt). These levels are consistent with the Town's present creditworthiness objectives highlighted in the budget process each year. The statutory total of all debt is 15% of full state valuation. Tax Anticipation Notes (TAN's) are outside of the debt limit, as they are temporary loans which communities typically pay back in full within the tax year.

Benchmarks: In an April 2008 Standard & Poor's release of debt measurements standards, *net debt as a percent of total market valuation* is considered "low" when it is below 3%. Maine Bond Bank does not wish to see rates above 5%. During the FY09 budget process, the Town's debt ratio was approximately 1% of valuation—a favorable ratio, and indicates a capacity to borrow without adding an excessive burden onto the tax base.

Another target or measurement standard is *annual debt service* (less self supporting) calculated *as a percent of current year's budgeted expenditures*, excluding assessments. 2 – 7% is considered low; 8 -12% medium; over 12% is considered a high tax burden. During the FY09 budget process, the Town's annual debt service percentage stood at 3.4% while meeting reasonable annual funding pay-as-you-go CIP commitments. In the FY08 and FY09 budget years, the CIP funding from taxation stood at a "reasonable" 12.5% level of total taxes raised.

Purposes and Uses of Debt

Capital Financing: The Town normally relies on internally generated funds and/or grants from other governments to finance its capital needs. Debt will be issued for a capital project only when it is an appropriate means to achieve a fair allocation of costs between current and future beneficiaries or users, or in the case of an emergency capital need. Other than TANS, debt shall not fund operational expenses.

Asset Life: The Town will consider long-term financing for the acquisition, maintenance, replacement, or expansion of physical assets (including land) only if they have a useful life of at least five years. Debt will be used only to finance capital projects and equipment, except in the case of an emergency. Town debt will not be issued for a period that exceeds 120% of the useful life or average useful life of the project or projects to be financed.

Approval

Bonds can be issued according to the authority outlined in the Town Charter. Action must be taken by affirmative Town Council votes and by the majority of voters at Town Meeting.

Debt Standards and Structure

Length of Debt: Debt will be structured for the shortest period consistent with a fair allocation of costs to current and future beneficiaries or users.

Debt Structure: Debt will be structured to achieve the lowest possible net cost to the Town, given the market conditions, the urgency of the capital project, the type of debt being issued, and the nature and type of repayment source (taxes or user fees). Moreover, to the extent possible, the Town will design the repayment of its overall debt so as to rapidly recapture its credit capacity for future use. As a guideline, the Town shall strive to repay from 30 to 50 % of the principal amount of its general obligation debt within five years and at least 60 % within ten years.

Backloading: The Town will seek to structure its total debt with level principal and interest payments over the life of the debt. "Backloading" (balloon payments, e.g.) of costs, using *term bonds* of 10 years or less, as defined in MRSA 30A 5772 (3) & (5), will be considered only when: natural disasters or extraordinary or unanticipated external factors make the short-term cost of the debt prohibitive; when the benefits derived from the debt issuance can be clearly demonstrated to be greater in the future than in the present; or when such structuring will allow debt service to more closely match project revenues during the early years of the operation. Generally, *level principal payments* are recommended for *tax supported debt*, but *level principal & interest* can be used for *fee based debt* to maintain rate stabilization goals.

Refundings: Periodic reviews of all outstanding debt will be undertaken by the Finance Director to determine refunding opportunities. Refunding will be considered if and when there is a net economic benefit to the refunding. In general, refunding will be considered when a net present value savings of at least 5% of the refunded debt can be achieved.

Credit Enhancements: Credit enhancements (letters of credit, bond insurance, etc.) may be used, but only when anticipated present value savings in terms of reduced interest expense exceeds the cost of the credit enhancement by at least 2%.

Investment of Bond Proceeds: All general obligation and revenue bond proceeds shall be invested separate from the Town's consolidated cash pool. In order to maintain safety and liquidity of the funds, all investments will be consistent with and adhere to the federal tax code, state law and the Town Council's Investment Policy.

Costs and Fees: All costs and fees related to issuance of bonds will be paid out of bond proceeds and allocated across all projects receiving bond proceeds from the issue.

Call Features: Whenever possible, financings in excess of 10 years will include optional redemption provisions.

Competitive Sale: In general, Town debt will be issued through a competitive bidding process. Bids will be awarded on a true interest cost basis, providing other bidding requirements are satisfied. Exceptions to this would be bonds issued in part through the Maine Bond Bank on behalf of the State Revolving Loan Program, the Maine Drinking Water Program, the School Revolving Renovation Program, a grant that ties the remaining monies to a loan (Rural Development, e.g.), or due to the small size of the loan making a competitive bid process less than cost effective.

Bond Counsel: The Town will retain external Bond Counsel for all debt issues. All debt issued by the Town will include a written opinion by Bond Counsel affirming that the Town is authorized to issue the debt, that the Town has met all State constitutional and statutory requirements necessary for issuance, and that Counsel has determined the debt's federal income tax status. Bond Counsel must have comprehensive municipal debt experience and a thorough understanding of Maine law as it relates to the issuance and

structuring of municipal debt and must be included in *The Bond Buyer's Municipal Marketplace* (the "Red Book") list of Municipal Bond Attorneys ("recognized Bond Counsel").

Financial Advisor: The Town will retain an external independent financial advisor who shall not have any conflicting relationship with any underwriters. The utilization of the financial advisor for particular bond sales will be at the discretion of the Finance Director on a case-by-case basis and pursuant to a financial advisory services contract. The major criteria in the selection process for a financial advisor will be comprehensive municipal debt experience in Maine, experience in the pricing structure of municipal securities, as well as overall cost of services.

Other Service Providers: The Finance Director shall have the authority to periodically select other service providers (e.g., escrow agents, trustees, etc.) as necessary to meet legal requirements and minimize net Town debt service costs, but this authority shall not conflict with other Town Council policies.

Arbitrage Compliance: The Finance Director's office shall maintain a system of record keeping and reporting to meet any arbitrage rebate compliance requirements of the federal tax code.

Financing Proposals: Any capital financing proposal by a Town department that involves the pledge or other extension of the Town's credit through the sale of securities, execution of loans or leases, marketing guarantees, or is otherwise a pledge of the Town's credit, shall be referred to the Finance Director's Office for review. The Finance Director's Office will then determine a recommendation to be forwarded to the Town Council for approval. Any tax-exempt financing will require the submission of IRS form 8038-G.

History of Bar Harbor's Bond Ratings:

Nov 1992	Moody's	A, new	--	--
Nov 2001	Moody's	A1, upgrade	Standard & Poor's	A+, new
Jan 2005	Moody's	A1, affirmed	Standard & Poor's	AA-, upgrade

Benchmarks of Investment Grade Bond Ratings	
Moody's Investors Service	Standard & Poor's Service
Aaa	AAA
Aa1	AA+
Aa2	AA
Aa3	AA-
A1	A+
A2	A
A3	A-
Baa1	BBB+
Baa2	BBB
Baa3	BBB-

- D. Town Charter: Council Size** – *Request of Councilor Paradis for discussion of the desirability of reducing the members of the Town Council from seven to five.* – Following discussion, it was of general consensus that Councilors Eveland and Paradis investigate the criteria that triggers the need for a Charter Commission.

E. Ethics Ordinance Amendment – *Review and possible introduction of an ordinance change to resolve ambiguous and conflicting language.* – Mr. Paradis, with second by Mr. Veilleux, moved to send the proposed changes to the Town Attorney for review. Motion passed 6-1 (Nay: Mr. Jordan).

F. Treasurer's Warrant – *Request of Treasurer to authorize paid bills.* – Mr. Paradis, with second by Mr. Veilleux, moved to sign the Treasurer's Warrant for paid bills. Motion passed 7-0.

VIII. COUNCIL COMMENTS AND SUGGESTIONS FOR NEXT AGENDA

Mr. Jordan expressed his thanks to the residents who re-elected him.

Mr. Veilleux thanked all the citizens who voted, it was a great turn out.

Ms. Schloss welcomed newly elected Councilor Sandy McFarland.

Mr. Garland, also, welcomed Sandy McFarland. He also inquired why the yellow line making two lanes at the Transfer Station that have worn off have not been re-lined.

Mr. Paradis reported that he received some comments about Council's action regarding Barker Park a few weeks ago. He will be making a written agenda request in the near future so that Council can potentially give the Parks and Recreation Committee some direction and get this project going in the near future.

Mr. McFarland reported he had his freshman orientation with the Town Manager earlier. He also inquired if the Town had a strategic plan. Staff would see that he receives a copy of the Comprehensive Plan.

Ms. Eveland thanked the Town Clerk and all the volunteers for moving the election forward and requested she pass it on.

She reminded Council of their special meeting at 5:30 p.m. next Tuesday, June 17, for a presentation on the Dark Skies Initiative. The proposed Lighting Ordinance will come before Council soon for fall election.

IX. MATTERS FOR POSSIBLE EXECUTIVE SESSION:

A. Land Acquisition or Disposal – *Consideration of the acquisition or disposal of real property or rights therein. (To be held in executive session as permitted by 1 MRSA 405.6.C, since premature disclosure of this information would prejudice the competitive or bargaining position of the Town.)* – Mr. Paradis, with second by Mr. Veilleux, moved to enter executive session, following a five minute break, as permitted by 1 MRSA 405.6.C, since premature disclosure of this information would prejudice the competitive or bargaining position of the Town. Motion passed 7-0. Council entered into executive session at 8:04 p.m. Council came out of executive session at 8:12 p.m. No action was taken.

B. Land Acquisition or Disposal – *Consideration of the acquisition or disposal of real property or rights therein. (To be held in executive session as permitted by 1 MRSA 405.6.C, since premature disclosure of this information would prejudice the competitive or bargaining position of the Town.)* –

Mr. Paradis, with second by Mr. Garland, moved to enter executive session at 8:12 p.m. as permitted by 1 MRSA 405.6.C, since premature disclosure of this information would prejudice the competitive or bargaining position of the Town. Motion passed 7-0. Council came out of executive session at 8:14 p.m. No action was taken.

C. Personnel Matter – *(To be held in executive session as permitted by 1 MRSA 405.6.A for discussion or consideration of a personnel matter.)* – Mr. Paradis, with second by Mr. Garland, moved to enter executive session at 8:17 p.m. as permitted by 1 MRSA 405.6.A for discussion or consideration of a personnel matter. Motion passed 7-0. Council came out of executive session at 8:17 p.m. No action was taken.

X. ADJOURNMENT – Mr. Paradis, with second by Mr. Garland, moved to adjourn at 8:18 p.m. Motion passed 7-0.

Paul Paradis, Secretary